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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADRIAN HOLLEY, et al.,

Plaintiffs,

v.

GILEAD SCIENCES, INC.,

Defendant.

No. 4:18-cv-06972-JST

**STIPULATION AND [PROPOSED]
ORDER RESOLVING DEFENDANT
GILEAD SCIENCES, INC.'S MOTIONS
TO DISMISS (ECF NOS. 1444, 1445,
1446, AND 1448)**

*This Document Relates to Plaintiffs Listed on
Exhibits attached to the filed Declarations of
Eva M. Weiler (ECF Nos. 1444-2, 1445-2,
1446-2, 1446-3, and 1448-2), and originally
filed in the following cases:*

Baumgartner et al v. Gilead Sciences, Inc., 4:20-cv-02446-JST;

Bird, et al. v. Gilead Sciences, Inc., 4:22-cv-00595-JST;

Calkins, et al. v. Gilead Sciences, Inc., 4:20-cv-01884-JST;

Clark, A et al v. Gilead Sciences, Inc., 4:21-cv-00713-JST;

Cariano, et al. v. Gilead Sciences, Inc., 4:22-cv-01867-JST;

Coleman et al. v. Gilead Sciences, Inc., 4:20-cv-04546-JST;

Criado, et al. v. Gilead Sciences, Inc., 4:21-cv-05656-JST;

Danner, et al. v. Gilead Sciences, Inc., 4:23-cv-01517-JST;

Davillier et al. v. Gilead Sciences, Inc., 4:20-cv-00570-JST;

Dowdy et al. v. Gilead Sciences, Inc., 4:19-cv-00481-JST;

Falls, et al. v. Gilead Sciences, Inc., 4:21-cv-05387-JST;

Geller et al. v. Gilead Sciences, Inc., 4:21-cv-08752-JST;

Goldfinger et al. v. Gilead Sciences, Inc., 4:20-cv-04043-JST;

Harlan, et al. v. Gilead Sciences, Inc., 4:22-cv-03156-JST;

Holley et al. v. Gilead Sciences, Inc., 4:18-cv-06972-JST;

Johnson, D., et al. v. Gilead Sciences, Inc., 3:23-cv-01439-JST;

Kachelmyer, et al v. Gilead Sciences, Inc.,
4:21-cv-00328-JST;

Keefe, et al. v. Gilead Sciences, Inc.,
4:22-cv-01370-JST;

Kelly, A., et al. v. Gilead Sciences, Inc.,
4:22-cv-00688-JST;

Koski, et al. v. Gilead Sciences, Inc.,
4:22-cv-08903-JST;

Lassiter, et al. v. Gilead Sciences, Inc.,
4:22-cv-06635-JST;

Lee, et al. v. Gilead Sciences, Inc.,
4:22-cv-02353-JST;

Leon et al. v. Gilead Sciences, Inc.,
4:20-cv-03744-JST;

Lewis, et al v. Gilead Sciences, Inc.,
4:21-cv-03218-JST;

Lundy et al v. Gilead Sciences Inc., et al.,
4:20-cv-05282-JST;

Lyons et al. v. Gilead Sciences, Inc.,
4:19-cv-02538-JST;

Lytch v. Gilead Sciences, Inc.,
4:23-cv-01715-JST;

Mack et al. v. Gilead Sciences, Inc.,
4:20-cv-04734-JST;

Mosely et al. v. Gilead Sciences, Inc.,
4:19-cv-05816-JST;

Nicholson, et al. v Gilead Sciences, Inc.,
4:20-cv-08751-JST;

Ortley et al. v. Gilead Sciences, Inc.,
4:21-cv-09576-JST;

Pennington et al. v. Gilead Sciences, Inc.,

1 4:20-cv-03489-JST;

2 *Rivers et al. v. Gilead Sciences, Inc.*,
3 4:19-cv-07991-JST;

4 *Sharp, D., et al. v. Gilead Sciences, Inc.*,
5 4:22-cv-09184-JST;

6 *Sutton, A., et al. v. Gilead Sciences, Inc.*,
7 4:23-cv-00701-JST;

8 *Sutton, Anita, et al. v. Gilead Sciences, Inc.*,
9 4:23-cv-02607-JST;

10 *White, A. et al v. Gilead Sciences, Inc.*,
11 4:21-cv-02039-JST;

12 *Wright, A. et al. v. Gilead Sciences, Inc.*,
13 4:21-cv-06082-JST.

14 Plaintiffs and Defendant Gilead Sciences, Inc. (“Gilead”), hereby stipulate and agree as
15 follows:

16 WHEREAS, on December 20, 2023, Gilead filed four Motions to Dismiss the claims of
17 Plaintiffs listed on Exhibits A and B to the Declarations of Eva M. Weiler that accompanied those
18 Motions (ECF Nos. 1444, 1445, 1446, and 1448).

19 WHEREAS, on January 26, 2024, Plaintiffs filed their responses to Gilead’s Motions to
20 Dismiss (ECF Nos. 1533, 1534, 1535, and 1537).

21 WHEREAS, the Parties have met and conferred and agree on the appropriate disposition of
22 Gilead’s Motions to Dismiss and seek to both reduce the burden on the Court and avoid further briefing
23 on the matter.

24 WHEREAS, regarding the 80 Plaintiffs subject to Gilead’s Tenth Motion to Dismiss Plaintiffs’
25 Claims for Failure to Respond to Serve Plaintiff Fact Sheets (ECF No. 1444), identified in Gilead’s
26 Exhibit A to the Declaration of Eva M. Weiler (ECF No. 1444-2):

- 27 1. The 43 Plaintiffs identified in Schedule A hereto have cured their delinquencies by
28 serving their PFSs and, by agreement of the Parties, are withdrawn from Gilead’s
Motion to Dismiss;

2. The 2 Plaintiffs identified in Schedule B hereto have voluntarily dismissed their claims (ECF No. 1563);
3. Plaintiffs' counsel will file a motion to withdraw as counsel for the 30 Plaintiffs identified in Schedule C not later than March 21, 2024;
4. The 3 Plaintiffs identified in Schedule D hereto are subject to the Stipulation and Order Regarding Deceased Plaintiffs (ECF No. 1434), shall have until April 25, 2024 to file a motion for substitution, or show other good cause, prior to dismissal for failure to comply with discovery obligations. *See* ECF No. 1434 at ¶ 6;
5. The 2 Plaintiffs identified in Schedule E hereto are subject to the Stipulation and Order Regarding Deceased Plaintiffs (ECF No. 1434), shall have until May 19, 2024 to file a motion for substitution, or show other good cause, prior to dismissal for failure to comply with discovery obligations. *See* ECF No. 1434 at ¶ 6.

WHEREAS, regarding the 94 Plaintiffs subject to Gilead's Fourth Motion to Dismiss Plaintiffs' Claims for Failure to Respond to Plaintiff Fact Sheet Deficiency Notices (ECF No. 1445), identified in Gilead's Exhibit A to the Declaration of Eva M. Weiler (ECF No. 1445-2):

6. The 85 Plaintiffs identified in Schedule A hereto have cured their alleged deficiencies by either supplementing their Plaintiff Fact Sheets ("PFSs") or responding by letter and, by agreement of the Parties, are withdrawn from Gilead's Motion to Dismiss (ECF No. 1445);
7. The 2 Plaintiffs identified in Schedule B hereto have voluntarily dismissed their claims (ECF No. 1563);
8. Plaintiffs' counsel will file a motion to withdraw as counsel for the 6 Plaintiffs identified in Schedule C not later than March 21, 2024;
9. The 1 Plaintiff identified in Schedule D hereto is subject to the Stipulation and Order Regarding Deceased Plaintiffs (ECF No. 1434), and shall have until April 25, 2024 to file a motion for substitution, or show other good cause, prior to dismissal for failure to comply with discovery obligations. *See* ECF No. 1434 at ¶ 6.

WHEREAS, regarding the 19 Plaintiffs subject to Gilead's First Motion to Dismiss Plaintiffs' Claims for Failure to Identify Their TDF-Prescribing Healthcare Providers, identified in Gilead's Exhibits A and B to the Declaration of Eva M. Weiler (ECF Nos. 1446-2 and 1446-3):

10. The 5 Plaintiffs identified in Schedule A hereto have cured their alleged deficiencies by either supplementing their PFS's with identifying TDF-prescriber information, or provided Gilead with information that demonstrates that Plaintiffs have made or are continuing to make good faith efforts to identify their TDF-prescribing healthcare providers and, by agreement of the Parties, are withdrawn from Gilead's Motion to Dismiss;
11. The 2 Plaintiffs identified in Schedule B hereto have voluntarily dismissed their claims (ECF No. 1563);
12. Plaintiffs' counsel will file a motion to withdraw as counsel for the 5 Plaintiffs identified in Schedule C not later than March 21, 2024;
13. The 6 Plaintiffs identified in Schedule D hereto are subject to the Stipulation and Order Regarding Deceased Plaintiffs (ECF No. 1434), shall have until April 25, 2024 to file a motion for substitution, or show other good cause, prior to dismissal for failure to comply with discovery obligations. *See* ECF No. 1434 at ¶ 6;
14. The claim of Plaintiff Yolanda Mason-Lang was voluntarily dismissed on January 11, 2024 and, by agreement of the Parties, is withdrawn from Gilead's Motion to Dismiss (ECF No. 1448).

WHEREAS, regarding the 166 Plaintiffs subject to Gilead's Second Motion to Dismiss Plaintiffs' Claims for Failure to Properly Verify Plaintiff Fact Sheets, identified in Gilead's Exhibit A to the Declaration of Eva M. Weiler (ECF No. 1448-2):

15. The 133 Plaintiffs identified in Schedule A hereto have cured their alleged deficiencies by properly verifying their operative PFSs and, by agreement of the Parties, are withdrawn from Gilead's Motion to Dismiss (ECF No. 1448);

16. Plaintiffs' counsel will file a motion to withdraw as counsel for the 24 Plaintiffs identified in Schedule C not later than March 21, 2024;
17. The 8 Plaintiffs identified in Schedule D hereto are subject to the Stipulation and Order Regarding Deceased Plaintiffs (ECF No. 1434), shall have until April 25, 2024 to file a motion for substitution, or show other good cause, prior to dismissal for failure to comply with discovery obligations. *See* ECF No. 1434 at ¶ 6.
18. The 1 Plaintiff identified in Schedule E hereto is subject to the Stipulation and Order Regarding Deceased Plaintiffs (ECF No. 1434), and shall have until May 19, 2024 to file a motion for substitution, or show other good cause, prior to dismissal for failure to comply with discovery obligations. *See* ECF No. 1434 at ¶ 6.

WHEREAS, THE PARTIES AGREE AND STIPULATE AS FOLLOWS:

1. Gilead's Tenth Motion to Dismiss Plaintiffs' Claims for Failure to Serve Plaintiff Fact Sheets (ECF No. 1444), Gilead's Fourth Motion to Dismiss Plaintiffs' Claims for Failure to Respond to Plaintiff Fact Sheet Deficiency Notices (ECF No. 1445), Gilead's First Motion to Dismiss Plaintiffs' Claims for Failure to Identify Their TDF-Prescribing Healthcare Providers (ECF No. 1446), and Gilead's Second Motion to Dismiss Plaintiffs' Claims for Failure to Properly Verify Plaintiff Fact Sheets (ECF No. 1448), and shall be disposed of as follows:
 - a. Plaintiffs' counsel shall file a motion to withdraw as counsel for the 65 Plaintiffs identified in Schedule C hereto not later than March 21, 2024. The claims of any Schedule C Plaintiff for whom Plaintiffs' counsel fails to move to withdraw by that date shall be DISMISSED without prejudice.
 - b. The 18 Plaintiffs identified in Schedule D hereto shall have until April 25, 2024 to file a motion for substitution, or show other good cause why their claim should not be dismissed for failure to comply with discovery obligations.

- 1 c. The 3 Plaintiffs identified in Schedule E hereto shall have until May 19, 2024
2 to file a motion for substitution, or show other good cause why their claim
3 should not be dismissed for failure to comply with discovery obligations.
- 4 d. Gilead's Motions are withdrawn as to all remaining Plaintiffs, (*i.e.*, those
5 identified in Schedules A and B), without prejudice to Gilead's rights under
6 Section 2 of the Court's Case Management Order on Plaintiff Fact Sheets and
7 Document Productions (ECF No. 83).
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DATED: February 21, 2024

By: /s/ Robert C. Hilliard

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DATED: February 21, 2024

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DATED: February 21, 2024

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ATTESTATION

I, Robert C. Hilliard, am the ECF user whose identification and password are being used to file the foregoing document. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that concurrence in the filing of this document has been obtained from each of the other signatories.

Dated: February 21, 2024

/s/ Robert C. Hilliard

Robert C. Hilliard

Attorney for Plaintiffs

[PROPOSED] ORDER

Pursuant to the foregoing Stipulation of the Parties, and good cause appearing, it is hereby ORDERED as follows:

1. The above Stipulation of the Parties is GRANTED.
2. Gilead's Motions to Dismiss (ECF Nos. 1444, 1445, 1446, and 1448) are disposed of as follows:
 - a. Plaintiffs' counsel shall file a motion to withdraw as counsel for the 65 Plaintiffs identified in Schedule C hereto not later than March 21, 2024. The claims of any Schedule C Plaintiff for whom Plaintiffs' counsel fails to move to withdraw by that date shall be DISMISSED without prejudice.
 - b. The 18 Plaintiffs identified in Schedule D hereto shall have until April 25, 2024 to file a motion for substitution, or show other good cause why their claim should not be dismissed for failure to comply with discovery obligations.
 - c. The 3 Plaintiffs identified in Schedule E hereto shall have until May 19, 2024 to file a motion for substitution, or show other good cause why their claim should not be dismissed for failure to comply with discovery obligations.
 - d. Gilead's Motions are withdrawn as to all remaining Plaintiffs, (*i.e.*, those identified in Schedules A and B), without prejudice to Gilead's rights under Section 2 of the Court's Case Management Order on Plaintiff Fact Sheets and Document Productions (ECF No. 83).

2. PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____, 2024

The Honorable Jon S. Tigar